

## **VOLUNTARY FOSTER CARE PLACEMENT**

As used in Michigan, voluntary foster care means placement of a child in which the parent can have the child returned upon a verbal request/demand, without any express or implied formalities or contingencies and where the court is not involved.

In these circumstances, the Indian Child Welfare Act (ICWA) does not apply because the parent or Indian custodian is not involved in a child protection proceeding and "either parent, both parents, or the Indian custodian has, of his or her or their free will, without a threat of removal by a State agency, chosen for the Indian child and that does not operate to prohibit the child's parent or Indian custodian from regaining custody of the child upon demand." 25 CFR 23.103(b)(4).

\*\*\*In contrast, ICWA applies to any foster care placement, voluntary or otherwise, if the Indian child is the subject of a "voluntary [court] proceeding that could prohibit the parent or Indian custodian from regaining custody of the child upon demand." 25 CFR 23.103(a)(1)(ii).

Workers must complete the MDHHS 5598 form for voluntary foster care cases involving an Indian child; see [NAA 200, Identification of An Indian Child](#).

Caseworkers may recommend voluntary foster care placements for Indian children under limited situations and when the regular caregiver(s) is absent on a short-term basis (not to exceed 180 days) from their childcare role for reasons beyond their control; see [FOM 722-01, Entry into Foster Care](#).

Acceptable situations for voluntary foster care include:

- Hospitalization.
- Incarceration.
- Residential Treatment.
- Another situation beyond the parent's control determined on an individual basis.

The DHS-3813, Request for Assistance/Voluntary Foster Care may be used to document the written agreement.

## Voluntary Foster Care Placement Evaluation

When exploring voluntary foster care placement, the caseworker must evaluate the following:

- Is the parent(s), guardian(s) or Indian custodian(s) willing to place the Indian child voluntarily?
- Is there indication that the parent(s), guardian(s), or Indian custodian(s) will follow the terms of the voluntary foster care agreement?
- Is it likely that the parent(s), guardian(s), or Indian custodian(s) will be able to resolve the issue or circumstance leading to the need for the Indian child's voluntary foster care placement for less than 180 days?

If the answer to **any** of the above questions is **no**, then voluntary foster care placement should **not** be used.

Voluntary foster care placement is also not appropriate for an Indian child if:

- The Indian child is a resident or domiciled on an Indian reservation.
- The Indian child is a ward of the tribal court.
- There is a tribe or an Indian cultural/services center that may have human resources available to assist the Indian child and the family that would eliminate the need for a voluntary foster care placement.
- No efforts have been made to explore alternatives to foster care placement, including placement with the other parent.

If the non-custodial parent is appropriate and able to care for the Indian child, every effort should be made to locate and notify that parent of the possible foster care placement before accepting a voluntary foster care placement consent.

- The family is not in full agreement and motivated to cooperate.

**LEGAL BASIS**

Bureau of Indian Affairs (BIA) ICWA Final Rule, 25 CFR 23.

Indian Child Welfare Act, 25 USC 1913.

Michigan Indian Family Preservation Act, MCL 712B.1 - 41.

Estates and Protected Individuals Code, MCL 700.5103.